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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

DIEGO LUA-GARCIA,

Defendant.

CASE NO. 1:20-CR-00031-JLT-BAM

STIPULATION TO VACATE STATUS
CONFERENCE AND ORDER THEREON

Date: January 11, 2023
Time: 1:00 p.m.
Honorable Barbara A. McAuliffe

STIPULATION

This case is set for a status conference on January 11, 2023. The parties hereby stipulate to vacate the status conference and set the case for a trial on December 12, 2023, at 8:30 a.m. before the Hon. Jennifer L. Thurston. The parties also stipulate to exclude time between January 22, 2023, and December 12, 2023.

1. Discovery in this case was provided on February 14, 2020, April 2020, and June 15, 2020, and during the week of November 30, 2020, comprised of voluminous investigative reports, wire interceptions recordings and electronic messages, precise location information data, and more, approximately 82,000 pages/files.
2. Defense counsel requires additional time to review the discovery, to conduct additional investigation and legal research, to pursue a potential pretrial resolution, and to prepare for trial.
3. The proposed trial date represents the earliest date that all counsel are available for trial, taking into account counsels' schedules, defense counsels' commitments to other clients, and

the need for preparation in the case and further investigation.

4. In addition, the public health concerns cited by General Order 611, 612, 617, 618, 620, 635, and 640 and presented by the evolving COVID-19 pandemic, an ends-of-justice delay is particularly apt in this case because counsel or other relevant individuals have been encouraged to telework and minimize personal contact to the greatest extent possible. It will be difficult to avoid personal contact should the hearing proceed and it is difficult for defense counsel to meet with their clients and review discovery.

The parties further believe that time should be excluded, in that failure to grant the requested case schedule would unreasonably deny the defendants continuity of counsel, and unreasonably deny both the defendants and the government the reasonable time necessary for effective preparation, taking into account the parties' due diligence in prosecuting this case. 18 U.S.C. Section 3161(h)(7)(B)(iv). Based on the above-stated findings, the ends of justice served by the schedule as requested outweigh the interest of the public and the defendant in a trial within the original date prescribed by the Speedy Trial Act. Therefore, the parties request that the Court exclude the time from January 11, 2023 until the trial on December 12, 2023, from calculations under the Speedy Trial Act.

IT IS SO STIPULATED.

Dated: January 5, 2023

PHILLIP A. TALBERT
United States Attorney

By: /s/ JUSTIN J. GILIO
JUSTIN J. GILIO
Assistant United States Attorney

Dated: January 5, 2023

/s/ Victor Perez
Attorney for Defendant
Diego Lua-Garcia

ORDER

IT IS HEREBY ORDERED that the status conference in this case be VACATED, and the case set for JURY TRIAL on **December 12, 2023, at 8:30 a.m. before District Judge Jennifer L. Thurston**. Estimated time of trial is **3 days**.

IT IS FURTHER ORDERED THAT the ends of justice served by the schedule set forth herein as requested outweigh the interest of the public and the defendants in a trial within the original date prescribed by the Speedy Trial Act for the reasons stated in the parties' stipulation. For the purpose of computing time under the Speedy Trial Act, 18 U.S.C. § 3161, et seq., within which trial must commence, the time period of January 11, 2023, and December 12, 2023, inclusive, is deemed excludable pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv) because it results from a continuance granted by the Court at the parties' request on the basis of the Court's finding that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial.

IT IS SO ORDERED.

Dated: **January 5, 2023**

/s/ *Barbara A. McAuliffe*
UNITED STATES MAGISTRATE JUDGE